



*Minutes
Loxahatchee Groves
Regular Town Council Meeting
February 3, 2009
Location: LGWCD*

Members Present:

Dave Browning, Mayor
Marge Herzog, Vice-Mayor
Dave Autrey, Council Member
Dennis C. Lipp, Council Member
Dr. J. William Louda, Council Member

Members Absent:

None

Others Attending:

Dr. Irv Rosenbaum, Interim Town Manager (NCS)
Matthew Lippman, Interim Town Clerk (NCS)
Michelle Kantor, Interim Assistant Town Clerk (NCS)
David Tolces., Esq., Town Attorney
Members of the Public

1. – 4. Call to Order/Roll Call/Pledge of Allegiance/Invocation

Mayor Browning called the meeting to order at 7:00 p.m. He then requested the roll call by Town Clerk Lippman. Upon completion of the roll, Mayor Browning requested everyone stand for the Pledge of Allegiance and Invocation.

5. Approval of Agenda

Vice-Mayor Herzog made a MOTION to approve the Agenda, SECONDED by Councilman Autrey and the MOTION passed unanimously 5-0.

CONSENT AGENDA:

6. **01/20/09 Town Council Meeting Minutes:** Approval
7. **Riverside Bank Investments:** Approval

Vice-Mayor Herzog made a MOTION to approve the Consent Agenda, SECONDED by Councilman Autrey and discussion was then opened:

The MOTION passed unanimously 5-0.

REGULAR AGENDA:

8. **Western Landfill Alternatives Update:** *Collene Walter, Kilday & Associates*

Town Clerk Lippman said the timing couldn't be better considering what we talked about at the last meeting. He said we have the pleasure of having Collene Walter back with us again who was here last year and is here to give us an update.

Collene Walter, Urban Design Kilday Studios- introduced herself and said that Kilday and Associates has a new name-Urban Design Kilday Studios.

Ms. Walter said you will most likely remember that last August I was here and did a presentation on the 3 alternate sites that were under consideration and those 3 same sites are still under consideration by the SWA. She said when I was here last August the SWA had completed their Tier 1 analysis which was a fatal flaw analysis and all 3 sites passed this and the SWA undertook their Tier 2 analysis. She said last September a selection committee met to review the sites and analysis that had been completed, and ranked the sites the SWA would consider as alternatives. She said the first ranked site was the SR80/US 98 site (the purple triangle). She said the closely second ranked site was the Hunley site (the orange square to the south). She said the third distant ranked site was the Okeelanta site, just south of Lake Okeechobee. She said on January 14, 2009 the SWA Board met to consider the alternative sites, to review the research and analysis that had been done, and to hear a recommendation from the Selections Committee. She said at that meeting there were many members from the Public in attendance, from the municipalities in the Western Communities and from the Environmental Communities, and at that time the SWA Board moved to actually postpone their decision by 60 days and they will be reconvening on March 18, 2009. She said in the interim we will be holding 3 Community Forums and my purpose in coming out to you this evening is to announce the Community Forums and to extend an invitation to all the Council Members and the residents of Loxahatchee Groves to come and make comments that can be taken back to the Board when they do reconvene to review the sites.

Ms. Walter mentioned the following Forums.

The first meeting will be held at the **Wellington Community Center on February 17, 2009 from 6:00pm to 9:00pm**. The first hour will provide the public with an opportunity to review project maps and materials and hold conversations with the SWA team members. At 7:00pm, there will be a presentation by the team engineers and experts. Following the presentation, there will be a question and answer period.

The second meeting will be held at the **Village of Royal Palm Beach Cultural Center on February 24, 2009 from 6:00pm to 9:00pm** using the same format as the Wellington event.

The third meeting will be held at the **Dolly Hand Theater, on the Belle Glade PBCC Campus on February 26, 2009 from 7:00pm to 9:00pm** using the same format as both the Wellington and Royal Palm events. No RSVP is required. You can also visit our website at www.swa.org for additional information.

Ms. Walter said we hope you can get the word out to your residents and come to one of the meetings. She said again we welcome you to come to all the meetings and we will continue to communicate the dialogue to you as this project moves forward.

Questions:

Councilman Louda asked for the sites that are ranked 1 and 2, is it possible to do a site tour.

Ms. Walter responded I don't know but I can ask.

Councilman Louda said a member of our Community, Frank Schiola brought up a wonderful concept. He then asked has transportation trips impact been done on the SR80/US 98 and the Hunley property, and primarily what he brought up is this waste could be transferred from the East on some new rail line. He said they may need a spur extension to get there. He said that is going to be a lot of trucks and the other thing I am worried about is what if they want to spread out the load and do something with Okeechobee which goes right through us. He said this is going to have a big impact on traffic and is already going to add to the traffic coming out of the pits. He said anytime you can discuss things with alternate transportation modes would be certainly welcomed out here. He said I am glad to see it is not the Okeelanta site. He said I will note for us their first meeting conflicts with our meeting on Tuesday, February 17, 2009.

Town Clerk Lippman asked Ms. Walter what is the difference between the 3 scheduled meetings.

Ms. Walter responded they are all going to be the exact same thing. She said the meetings will be set up where for the first hour there will be stations and one will be a transportation station because as part of the review the impact of the truck traffic has been analyzed. She said then around 7p.m. there will be a formal presentation similar to the presentation that was given at the Board Meeting which goes into the cost benefit analysis that was done on each of the sites. She said at the end of the meeting there will be a question and answers session so everybody will get a chance to ask their questions.

Vice-Mayor Herzog said at the meeting where the Commissioners were present, one of the people who got up and spoke was about the value of the land and if we are paying the right

price. She noted it was in the paper again today and asked will that be a factor that will actually come up for discussion again. (the purchase price)

Ms. Walter responded the purchase price will be discussed at the March Board meeting but it will not really be discussed as part of the Community Forum. She said I am sure the purchase price of the property will be extensively discussed. She said it is not really a topic of the Community Forum.

Vice-Mayor Herzog asked so it is not necessarily part of what is causing the decision for this particular site or another one.

Ms. Walter responded it will definitely factor in.

Vice-Mayor Herzog asked so you don't know which solid waste site might be one of the ones to be flipped, Karen Marcus had talked about a trade off.

Ms. Walter responded I don't know the sites they would be exchanging.

Vice-Mayor Herzog said but they are all fed by Southern Boulevard anyway.

Ms. Walter responded and that is the analysis from the traffic, essentially that all 3 sites are very similar.

Councilman Autrey asked what does your company actually do in this project. He asked what relationship does your company actually have.

Ms. Walter responded we are a sub-consultant for the SWA. She said primarily we were brought on board to handle the rezoning application that was needed for the existing site that they own and that application was filed and is part of the public outreach related to the processing of that rezoning application and that was where the discussion pertaining the alternate sites arose, so we have been retained to continue with the public outreach and as part of the analysis we assisted with the Comprehensive Plan and Zoning Impacts.

Councilman Autrey asked did you look at traffic impacts coming through a community and the consequence of that and litter.

Ms. Walter responded our firm personally did not do that type of work but as part of the analysis the other consultants did.

Councilman Autrey asked are you familiar with any of that data.

Ms. Walter responded said no. She said but those topics will be focused on at the Community Forum Meetings.

Councilman Lipp said I'll be looking forward to going to the meeting and I guess we can attend at Royal Palm.

Mayor Browning asked for comments from the Public.

Frank Schiola, 13434 Marcella Boulevard- said I know they are counting the SWA traffic that goes out there but also you have some other traffic, private contractors, fueling trucks, and

people that go to work out there. He said so you are going to be seeing a lot more traffic out there than you are seeing now, and I'd also urge the Council, especially the Mayor, to get with the Mayors of the other 2 communities out here and work on a Resolution that expresses all of our views about where we would want the dumpsite to go. He said I agree with Councilman Louda that they may decide to take Okeechobee to bring it out there and it may make the traffic even worse.

Mayor Browning moved to Item #9.

9. Ordinance 2009-001 (Amending Ordinance 2007-006: Code of Ethics Ordinance): 2nd reading & public hearing

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING ORDINANCE 2007-06, THE "ETHICS CODE" FOR THE TOWN OF LOXAHATCHEE GROVES, TO PROVIDE FOR ADDITIONAL RESTRICTIONS ON THE ABILITY OF TOWN COUNCIL MEMBERS TO EITHER CONTACT OR COMMUNICATE WITH INDIVIDUALS OR ENTITIES THAT HAVE PETITIONS OR APPLICATIONS PENDING WITH THE TOWN; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE

Town Attorney Tolces conducted the 2nd reading of Ordinance 2009-001- Amending Ordinance 2007-006: Code of Ethics Ordinance. He noted we did change the word make to **have** in Section J as requested in the last meeting. He noted the changes in Section W are as presented in the 1st meeting.

Councilman Louda made a MOTION to approve Ordinance 2009-001-Amending 2007-006: Code of Ethics Ordinance on the 2nd reading, SECONDED by Councilman Vice-Mayor Herzog and discussion was then opened:

Councilman Lipp mentioned Section 126-Orientation of Elected Officials (a) and asked Councilman Louda and the Mayor if they had attended the EMO meetings. He said I know Marge, and I, and Dave attended the first one, and Marge and I went on to the second one.

Councilman Louda responded no.

Mayor Browning responded I don't think I did.

Councilman Lipp said I would recommend delete the within 12 months. He said we either do it or we don't do it. He said what is an encouragement with a time table.

Town Attorney Tolces said it wouldn't necessarily be a change because you are just taking out the time period not the requirement. He said we wouldn't need to go back and re-advertise.

Councilman Autrey said it just says you are encouraged not you must. He said this is not a mandate.

Mayor Browning said keep it simple like it is.

Councilman Autrey said I think it is well worth the time if you can do it.

Mayor Browning asked for comments from the Public.

There were no comments from the Public.

Mayor Browning moved to Item #10.

The MOTION passed unanimously 5-0.

10. Resolution 2009-003: Fireworks Regulations

A RESOLUTION OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA EXPRESSING ITS SUPPORT FOR THE FLORIDA LEGISLATURE TO REPEAL SECTION 10(5) OF CHAPTER 2007-67, LAWS OF FLORIDA WHICH ENACTED A MORATORIUM ON THE ABILITY OF A MUNICIPALITY, COUNTY, OR OTHER UNIT OF LOCAL GOVERNMENT'S RIGHT TO ADOPT REGULATIONS GOVERNING THE RIGHT TO PURCHASE, SELL, USE, OR POSSESS CONSUMER FIREWORKS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Tolces conducted the reading of Resolution 2009-003-Fireworks Regulations.

Vice-Mayor Herzog made a MOTION to approve Resolution 2009-003-Fireworks Regulations, SECONDED by Councilman Autrey and discussion was then opened:

Councilman Louda said it sounds like a good thing to do. He said I've been in contact with the County Attorney and am setting up an appointment with Paul Reillo, the County Attorney, and myself just to see what the County can do. He said and while I am there I will just mention this.

Vice-Mayor Herzog said I turned in a copy of the Resolution and information about the parrot that had died to the League of Cities and asked for their input as far as participation and supporting similar Resolutions.

Councilman Lipp said I know we get various Resolutions from different cities throughout the state, and asked would it be appropriate to send this out.

Town Attorney Tolces said in Section 3 it directs Town Staff to send this to a number of places. He said but I notice that we didn't include the PBC League of Cities.

Town Clerk Lippman said I have an email chain that will email this to all Town Clerks in PBC and in addition can send it to Broward and Dade also.

Councilman Lipp said all of the above. He said the more support we can get on this, the more we can get involved in this the better off we will be.

Town Clerk Lippman responded it will be done.

Councilman Louda said what Paul and I are going to be asking the County Attorney is to follow up on the registration; because the thing is already on the books. He said if they just do a couple of spot checks and see the registration and look for the AG Exemptions and word will spread like fireworks.

Mayor Browning asked for comments from the Public.

There were no comments from the Public.

Mayor Browning moved to Item #11.

The MOTION passed unanimously 5-0.

11. Resolution 2009-004: Solid Waste Transfer Stations

A RESOLUTION OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA EXPRESSING ITS CONCERN REGARDING THE INCREASE IN TRUCK TRAFFIC ALONG SOUTHERN BOULEVARD AS WELL AS OTHER TRANSPORTATION ROUTES WITHIN PALM BEACH COUNTY THAT WILL RESULT FROM THE TRANSPORTING OF SOLID WASTE TO THE NEW PALM BEACH COUNTY LANDFILL TO BE LOCATED IN CLOSE PROXIMITY TO THE TOWN; EXPRESSING ITS SUPPORT FOR THE USE OF THE FLORIDA EAST COAST RAILWAY AND CSX RAILROAD TRACKS TO ASSIST IN THE TRANSPORTATION OF SOLID WASTE TO THE NEW PALM BEACH COUNTY LANDFILL; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Tolces conducted the reading of Resolution 2009-004-Solid Waste Transfer Stations.

Councilman Lipp made a MOTION to approve Resolution 2009-004-Solid Waste Transfer Stations with the added Where As clauses, SECONDED by Councilman Louda and discussion was then opened:

Councilman Lipp noted the 4th Where As, truck traffic, he said it is supposed to be about 300 trips per day and asked can we put that in there because maybe if we had a reference on that.

Councilman Louda said check it and put in the correct number.

Councilman Lipp said maybe we can add another Where As, heavy truck traffic will increase the number of traffic accidents. He said when the aggregates started out there the trucks blow through the traffic lights all the time so there will be additional accidents. He said I think we can

come up with a whole litany of Where As's here which will be much more than just air quality. He said if you can just look into the interstate that runs through Jackson, MO.

Councilman Louda said sounds good to me.

Mayor Browning said one other thing to add to that is the litter thing. He said with 300 trucks going out they do not have control over how well those trucks are covered. He said if an officer sees the stuff flying out they can ticket them but that whole Corridor will be covered with stuff flying out of those trucks.

Town Attorney Tolces said we can redraft this and bring it back at your next meeting or you can approve it with the proposed amendments.

Councilman Lipp let's approve it with the amendments.

Councilman Louda said let's get it out.

Vice-Mayor Herzog said didn't they say most of what was going to be transferred would be ash. She asked if the rail stations had been put in the Resolution.

Town Attorney Tolces responded yes, and I will enhance the Where As clause.

Councilman Louda said the only other thing would be the thing we did discuss on Okeechobee. He said do we want to actually put it in or leave it out. He said let's leave it out.

Mayor Browning asked for comments from the Public.

Frank Schiola, 13434 Marcella Boulevard- said the 300 truck trips a day are just SWA transfer trucks they are not everything else going out there. He said there will be most likely 2000 trucks and cars going out there a day so I think we need to come up with some solid numbers.

Councilman Louda said oh yeah I forgot about independent dumpers.

Councilman Autrey said whatever data we use let's make sure we use an accurate source we can reference.

Mayor Browning said Frank is right, that is the solid waste trucks and a landfill everybody is going to be using.

The MOTION passed unanimously 5-0.

Councilman Lipp asked do we have who we are going to be sending this to.

Town Attorney Tolces said it is in here.

Councilman Lipp said like we did with the last one, send it to everyone.

Town Clerk Lippman said every municipality in PBC will get it.

Mayor Browning moved to Item #12.

12. Policy on Town Charitable Contributions: Discussion

Town Clerk Lippman said at the last meeting Town Manager Dr. Rosenbaum brought forward a request for a charitable contribution and the Town Council deferred simply because we didn't have a policy in place. He said we are recommending a maximum of \$1500 per fiscal year total. He said the reason being is we can't go by %, it just doesn't work and after looking at other municipalities we think this is the way to go. He said there is room in the Budget for it. He said you can either choose to tag one cause or leave it open ended so as requests come forward you can discuss them. He said so that is our recommendation in order to set a policy for the Town.

Councilman Louda made a MOTION to direct Town Staff to bring back a Resolution adopting the policy on charitable contributions with a limit of \$1500.00 per fiscal year in the Budget, SECONDED by Vice-Mayor Herzog and discussion was then opened:

Councilman Louda said leaving it open ended, once they know the money is there you are going to get requests from everybody. He said I think the support of local schools. He said about the only thing I can see us putting in here would be maybe Boy Scouts and Girl Scouts. He said but I don't think it should be more than \$1500.

Town Manager Dr. Rosenbaum said if we can focus it on things in the Town, serving the Town residents, that may be a way to keep the flood gates from opening.

Councilman Autrey said this isn't to be very complicated. He said if the requests come in and the Council gets to decide based on the number of requests who they want to donate to. He said you can always say no. He said I don't think the residents are going to hold anything against us or Future Councils from contributing to the schools or putting a little bit back into the Community that has supported the Town. He said especially at this stage of the game, we have used the Elementary School quite a bit. He said it is \$1500.00.

Vice-Mayor Herzog said I was wondering if there should be a way of not having the same group come back repeatedly year after year and always be the one it is rewarded to.

Councilman Autrey said we have only one Elementary School and we can't penalize them for being the only one.

Town Attorney Tolces said you want to try and keep it simple. He said some cities do have a once a year application process. He said that is something you may want to consider.

Councilman Lipp said as Councilman Autrey said it is \$1500.00, let's keep it simple. He said I think it will be a learning experience for us.

Vice-Mayor Herzog said I like the idea of once a year because it gives you more control, because otherwise you are going to have to keep track of who got what and how much is left in the account. She said this way we could have one meeting and decide where it is going.

Councilman Autrey said we adopt our Budget in September so you set a deadline of June 30 for applications and then it can get thrown in the mill and it is done.

Vice-Mayor Herzog said sounds good.

Mayor Browning said I hate to be a wet blanket on it and I am a firm believer of giving to charities and groups and I do that myself, but I almost feel we are taking the tax money of our residents and giving it to others. He said I guess I have problems because I can see something like this growing and having feeling hurt. He said there are a lot of charitable causes out here in Loxahatchee Groves and we might be getting quite a few applications for these funds. He said it is kind of strange the Towns take tax money and then donate it.

Town Clerk Lippman said my two cents is that the flood gates are not going to open and if you start an application process then you are going to create more attention to it than you need to. He said and I think that for the next fiscal year, you just need to have it so if you desire as a Council decide to support an organization it is there, and if you choose not to use it then you don't have to. He said I think just with starting an application process you are starting a bureaucratic things with the Town office and you are advertising to the people out there that we have money. He said unless you pay attention to the Budget process, no one knows it is there and it is just a tool for you to have if you decide to contribute.

Mayor Browning asked for comments from the Public.

Paul Reillo, 1222 E Road, Rare Conservatory Species- said on the issue of charitable contributions, I think there are some other issues that you might want to take into account. He said first I agree with Matt that formalizing an application process is going to come to the Town in a way you might not expect. He said the new era of giving is that RFP's are very hard to find and those who have funding usually decide within that body how they want to allocate funds on the basis of need. He said and I think that is a smart decision because that is going to change you and I think it is the elected group here who will best knows where to direct funds. He said on another issue, donor directed funds. He said I think the charitable organizations in the area, which are the recipients of money from the Community, things in the area that we are interested in is land conservation, greenways and things that are being discussed now. He said we need to think forward of ways to entice donors both corporate and private unique funding opportunities to come forward recognizing the position of local charities working collaboratively with the Town so that pockets of revenue can be generated for donor directed activity, specifically as regards to real estate here because there is undeveloped land in the Groves that has real value. He said and how that is going to be managed is going to take some close cooperation between the nonprofit and governmental communities. He said I think these sorts of policies regarding charitable contributions should be put all into one package and I think it is very prudent that how you allocate any money that the Town receives from any source both public and private, for public goods, needs to be carefully controlled. He said if a donor comes forward with a specific Agenda we need to know there is a way to address that money and make sure it is channeled properly not only to the government interest but also to make sure the Community is advised to what is happening and why.

Nancy Handweg, 14878 N. 19th Street- said although all the charities that the Council talked about tonight are good causes, I would just caution Council to be careful about limiting. She said because we have charities out here like CERT which serves this Community and should we have a disaster would be the first responder for the Community, so just be careful that you are not narrowing it so much that you might phase out a group that may deserve those funds.

Frank Schiola, 13434 Marcella Boulevard- said I believe the charitable contributions you are looking at was brought up because my wife went to Matt and asked if the Town could donate some money to sponsor a bounce house for the carnival at Loxahatchee Groves Elementary School that happens every year. He said this carnival is here every year and the money that is raised goes to supplies for the classrooms and last year went to saving a teaching position. He said this is the only school within the corporate boundaries of Loxahatchee Groves and it does bear the name of the Town and has since it was built. He said to answer Mayor Browning, if the taxpayers have kids in Loxahatchee Groves, they go to that school or have in the past. He said and we also have within the Town limits 1 Girl Scout Troop and 1 Boy Scout Troop. He said I have some information on the upcoming event I will hand out and I hope the Council Members would support that. He said in our Town we don't have that many things for our kids to do yet and hopefully the future will have places for kids to go but right now it is things like this that keep our kids off the street from throwing rocks and doing things that they shouldn't be doing.

Town Clerk Lippman said if we could just clarify, we all have to agree it will be \$1500.00 and if you want an application process during the Budget time it needs to be part of the Motion as well.

Councilman Louda said I will AMEND the MOTION to \$1500.00 and to keep it local with no formal application process and to put it in the Budget.

Town Clerk Lippman said we will still develop guidelines, not formal, but on how they can request funds.

Town Clerk Lippman added just a side note to tell you since we have been here from the Summer of 2007 to now, this is the 1st request we have ever gotten.

Councilman Louda asked can we act on the current request.

Town Clerk Lippman responded if you feel comfortable that a Resolution is coming forward and there will be a policy in place you can make a decision to donate money tonight to this organization.

Vice-Mayor Herzog said it might be a time cut off.

Mr. Schiola said it has to be in by March 24, 2009.

Councilman Louda said let's bring it back.

Vice-Mayor Herzog said I think we need to select one because there were a range of prices and different levels.

The Amended MOTION passed unanimously 5-0.

13. Fire Suppression Water Sourcing: Discussion of a study to explore alternatives

Town Clerk Lippman said this is a continuation of the discussion that started in the Intergovernmental Meetings with Councilman Louda being the leader on this and talking this through. He said I provided you with a Memo that is a summary of the Item coming from Councilman Louda's summary of the report of the last IG Meeting.

Councilman Louda said the main reason for this is that when the LGWCD goes forward to ask to be able to back pump more than we are allowed to back pump should a drought come along, we as a Community need to show good faith and effort that we are looking for alternative sources of water. He said a lot of things were discussed. He said one was deepening and hardening the canals which would be very expensive. He said one was a loop system. He said the other one is to spot and locate some wells but we need to get the information from the Fire Department as to what is the flow they need for a pumper, can a well handle it, and then we need some geological input on how deep do we have to go. He said that is about where we are. He said the loop system Vice-Mayor Herzog brought up the fact that maybe we could get a loop system on the gray water going out. He said I think the easiest one would be to investigate the sufficial aquifer well system. He said I am against it but potentially if the Town wants to get into this trade off where Bevin Beaudet wants to drill the 11 wells up in our NE corner, that is something way down the road and you can put fires out with salt water and fight the rest later. He said we need to direct Staff to begin finding out what is the cheapest way to get some engineering input and find out from PBC Fire what their needs are.

Vice-Mayor Herzog asked Councilman Lipp you had made a comment about the 11 wells and asked is there anything pending soon.

Councilman Lipp responded not that I know of.

Councilman Louda said the 11 wells located where they want to locate them wouldn't actually help us, they would have to do some others for us as a trade off.

Mayor Browning asked for comments from the Public.

Frank Schiola, 13434 Marcella Boulevard- said I agree with Councilman Louda that we do have to put drafting wells in. He said the average that would be pumped out of a well would be a maximum of about 1200 gallons per minute but you have to remember we are going to be filling up a tanker truck and sending it back. He said as far as the wells go, this might be something that we can look at as getting water lines brought down the LGWCD right of ways and it will keep it off the roads. He said this was discussed at one of the Intergovernmental Meetings that we can put it on the easement and when the firefighters need to use it they could walk across and that would solve the problem of bringing the lines across the road or digging up the road. He said and if in the future, for some reason some people's wells went dry the water lines would be here but the whole goal is to have the County bear the cost of it and the Groves benefit from it without the taxpayers having to spend money. He said putting in the dry hydrants would be a priority and in the summertime there wouldn't be a problem but in the wintertime like where we are at now there are definitely problems

Councilman Lipp said a point of order, something I did a little research on. He said you are calling Patrick as the Town's Engineer and I don't remember us appointing Patrick as the Town's Engineer. He said I remember us hiring Calvin -Giordano to do Engineering Services and I would like the record to reflect that Calvin-Giordano is our Engineering Consultants and any of the services provided by Calvin-Giordano that we call it that and the same for Jeff Maxwell, he is not our Traffic Engineer.

Councilman Louda made a MOTION to direct Town Staff to arrange a meeting with PBC Fire Rescue, Clete Saunier-LGWCD, the Calvin-Giordano Engineering Consultant to gather information and begin the project, SECONDED by Vice-Mayor Herzog and the MOTION passed unanimously 5-0.

Vice-Mayor Herzog asked when is the next meeting date.

Councilman Louda responded the next Intergovernmental Meeting is Friday, February 13, 2009 at 2p.m.

Mayor Browning moved to Item #14.

14. Administration Update

- a. March 10, 2009 Municipal Election (candidate filing update)
- b. DCA ORC Report for Town Comprehensive Plan
- c. Master Road and Equestrian Greenway Trail way Plan Study (M.R.E.G.) & SR 80 (Southern Blvd.) Corridor Study
- d. PBC League of Cities: Report from 1-28-09 General Meeting (*Vice Mayor Marge Herzog*)

(A) Town Clerk Lippman said we have our municipal election March 10, 2009 and the filing deadline has passed as of today at noon. He said Seats 1 and 3 are the two seats that are up for election. He said Seat 1 which is currently occupied by Councilman Autrey who has chosen not to run. He said there are two candidates who have filed to run for that seat, Ron Jarriel and Ilene Rindom. He said Seat 3 is currently held by Vice-Mayor Herzog and she is filing to run for it again, and Ryan Liang who is here tonight is running for that seat as well. He said it should be a very smooth election. He said all four candidates received a pretty large campaign book and I can provide this on CD. He said I think this will be a good tool to use if we have a new Council Member, which we will for Seat 1 and possibly for Seat 3 and hopefully the candidates will find good use of it.

(B) Town Clerk Lippman said on Monday, February 9, 2009, by the end of the day, the amended Comp Plan that will be brought forward to the Council will be available for the rest of the Public to review online. He said on Tuesday, February 17, 2009 will be the transmittal hearing and 2nd reading of the Ordinance for the Comprehensive Plan. He said this will be properly advertised. He said we encourage the Council Members as you are reading through this if there are any changes to send them to me and I will send them to Lorraine. He said there should not be any substantiate changes because they took all the items in the ORC Report and elaborated and focused on what DCA wanted them to do and in addition the LGWCD

comments have really been approved by both bodies and it is reflected in the document. He said so I am hoping this will be a really smooth transition.

(C) Town Clerk Lippman said I met recently with Jeff Maxwell, the Consultant from Calvin-Giordano for Traffic, and we are in the final stages of the MREG and the SR80 studies. He said we are going to have a Public Information Meeting on Saturday, February 14, 2009 at 10a.m. at Loxahatchee Groves Elementary School. He said I will put this in the newsletter which will hopefully go out in the next two days. He said this meeting is just for informational purposes to get everybody caught up to speed on where we are and to report some of our findings. He said the full report will then be available that last week of February. He said it should be a short meeting but we wanted to show where we are at, at this point.

Councilman Louda said that will be for review and asked when will it come to a regular meeting.

Town Clerk Lippman responded in that last week of February. He said then we will discuss it at the second meeting of March after the election.

Councilman Louda said my only concern is it won't be brought up for the March 3, 2009 meeting, because I will not be at that meeting.

(D) Town Clerk Lippman turned the Agenda Item over to Vice-Mayor Herzog.

Vice-Mayor Herzog said there was a joint meeting between the Board of Education, the Commissioners and the Florida League of Cities and at that joint meeting it was decided that there would be forming study groups and they reminded everyone that was going to participate in these groups to be sure that anything that is in place is not negatively affected by any actions that these study groups propose. She said and some of the things that the study groups would cover would be food and quality of life, the healthy lifestyles that affect the three areas. She said more affordable housing, the stimulus, and how to capture the dollars for the County, safer ways to get to schools, coordinating carpools, and walking and biking to school. She said also the PBC Housing foreclosure issues in PBC came up and the subprime loans that brought about some of these foreclosures. She said they mentioned some municipalities are buying up these foreclosed buildings, having the residents put work in restoring these buildings and then having the Town rent them out to low income families. She said on the Legislative end it was reported that the Miami/Dade area is requesting legislation to eliminate the surcharges for any utilities outside the boundaries and they felt that wouldn't get much support because a lot of the Towns, such as Royal Palm Beach love getting the water royalties so they probably would not go very far with it.

Councilman Louda asked on your safe ways to get to school, has that been brought into the MREG Plan.

Vice-Mayor Herzog responded that was the justification for the sidewalks that were put on Okeechobee.

Town Clerk Lippman said I know it is addressed I just need to look and find in what Section.

Mayor Browning moved to Item #15.

15. Public Comments

Maureen Lefkowitz, 3485 D Road- said I am the person who lives next to the 400 screaming macaws and I just read the paper-The Town Crier about the fine breeding male parrot who was aggravated by the fireworks and I think it is great that you are stepping forward to put an end to the endless loud noise that is disruptive to the health and well being of the both animals and people here. She said I feel like this could be a head injury from me smashing my head against my walls because I am very aggregated when I can't go out in this beautiful weather to enjoy my property and work in my yard, or have dinner or breakfast on my porch, and then I have to write a check for the tax collector for \$8000.00. She said I just wanted to have you not forget about me when it comes to the upcoming Land Development Codes.

Frank Schiola, 13434 Marcella Boulevard- said since we are having a Town Council Meeting on February 17, 2009 that is also the 1st meeting for the SWA, so I would urge all of our Council Members to make the Royal Palm Beach Meeting on February 24, 2009. He said showing up there in force I think that we are going to get the site we can live with. He said we really don't want it out here but we are going to have to try and live with it. He said I would also urge the Town Council when the time adopting the Resolution pertaining to the site that it would be also desirable that the inland port will go there to so we don't have a garbage site in one place and a port someplace else and that way we would have all the industrial in one section instead of spreading it out, because with the inland port we are looking at light pollution.

Ilene Rindom, 14285 Collecting Canal Road- said with the \$1500.00 charitable money one of the things I did as Cub Master for the Cub Scouts here in Loxahatchee Groves was if one of the dens wanted money then one of the kids in that den had to write me an essay on why they wanted the money and what they were going to spend it on. She said so it may be a way of involving the group asking for the money so the kids know what the money is going for. She said so do they actually know what the money is going for might be something to consider.

Mayor Browning moved to Item #16.

16. Town Clerk Comments

Town Clerk Lippman said on the Town Website, posted at the Town Office, and on my business card there is an emergency phone number if anyone ever needs to get a hold of us. He said we have shirts up on the dais and I put pictures of these on the website. He said there are three colors they come in and they are \$15.00, which is exactly what we paid for them. He said we have four dozen in the office in all different sizes so come by. He said the newsletter is going out in the next few days which will have the information for the MREG Workshop. He said some of the questions I get on the phone and when people come in the office are really shocking. He said the reason I say shocking is some of the information that floats around here is like the elementary school game of telephone and by the time it gets to the 10th person it is all misconstrued. He said our office is a source of information, with no party affiliation. He said I want people to treat our Town Office as the library and instead of hearing what their neighbor is

saying, please confirm the information because some of the questions I'm getting I don't know where they come from sometimes. He said so please use the office as a source of information, confirm facts, that is what we are here for. He said we really want to help people out. He said the last thing is we are keeping a close eye on the stimulus package. He said FDOT has started a page on their website dedicated to that but their projects are for County and State Roads. He said there was a quick turn-around time for an EPA Grant as part of the stimulus package for the State that we put our name in the hat for. He said we quickly did that because Jeff Maxwell in doing research and following up with the State they let him know this grant was out there. He said what we use it for, we can change, we are not committed to it and we can decide not to use it. He said what we use it for does have to be within certain parameters, but it doesn't have to be project specific like F Road, D Road, or a culvert.

Councilman Lip asked have you communicated with our local Congressman on these issues like Congressman Rooney.

Town Clerk Lippman responded no I have not.

Town Manager Dr. Rosenbaum said I can arrange that, I have regular communications with Mr. Rooney's office.

Councilman Louda asked what emphasis is on the EPA Grant.

Town Clerk Lippman responded it is very preliminary and it would be something that is environmentally friendly. He said it is a very broad scope and we just had to write a summary, non specific statement on why we should be considered.

Councilman Louda said on the State DOT because they are going forward, can you if it is the consensus of the Council, follow up on that and see if in their plans for Southern if we can get our light at D and Southern.

Town Clerk Lippman said I will send you a link to their website that breaks it down into projects that are shovel ready and I will speak to you at some point in time about your idea of D Road and the light because I have some information that may be helpful to you.

Councilman Louda said I've seen an awful lot of stuff at D and Southern, usually out of my side view or rear view mirror.

Town Clerk Lippman said we did some research for you and I will get you the information.

Mayor Browning moved to Item #17.

17. Town Attorney Comments

Town Attorney Tolces said as you are aware the State Legislature is gearing up for a new legislative session and there are proposed legislation dealing with Sunshine Law, Public Records, Public Tax Reform, and municipalities and counties are looking at ways to obtain new revenues so there will likely be some Bills dealing with Special Assessments for Fire and Police and we will keep you informed so the Council will have an opportunity to adopt Resolutions as

you deem appropriate. He said other than that, I had a wonderful lunch with Justice Scolia it was very interesting to hear him speak.

Vice-Mayor Herzog asked have we been communicating with State Representative Joseph Abruzzo to make sure we have everything in place that would help our Town. She said he and Congressman Rooney should be contacted.

Town Attorney Tolces said I have not had any conversations with his office but I will make contact with his office so he knows that we are there to help him.

Mayor Browning moved to Item #18.

18. Council Member Comments

Councilman Lipp said I received a call today and a fax from Dennis Koehler in regards to Ordinance 2008-011. He handed out copies of the below letter for the record.

Received: 21 3109 8146914
5816840210 -> 816888 8146914 8146914
Feb 03 09 04:20
2010040270


Dennis P. Koehler, D.A., LLC

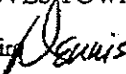
2511 Westgate Ave, Unit 7
West Palm Beach, FL 33409
Telephone (561) 684-2844
Facsimile (561) 684-9370

BY FAX (793-6013)

MEMORANDUM

February 3, 2009

TO: Hon.  Lipp, Member
LOXAHATCHEE GROVES TOWN COUNCIL

FROM: Dennis P. Koehler, Esquire 

SUBJECT: Ordinance No. 2008-011, "Exemptions to Town's Moratorium Ordinance"
[for Nonconforming Uses]

On January 6, your Town Council voted unanimously to approve the referenced Ordinance. The intent of the Ordinance was to offer an opportunity, to those property owners whose current land uses – typically, agriculture-related business activities – do not conform with the County's Comprehensive Plan or Unified Land Development Code, to eliminate those nonconformities and bring their properties into compliance.

Because the Town hasn't yet adopted its own comprehensive plan and zoning code and has hired no professional staff to review and make recommendations to the Town Council on applications for development order approvals (comprehensive plan amendments, rezonings, conditional uses, etc.) filed with the Town under Ordinance No. 2008-011, it was understood that the Town would rely on the County's planning and zoning staff to perform that technical review, as was done for the Village of Wellington after that municipality's incorporation a number of years ago.

An immediate question has arisen as to how detailed and comprehensive your Town Council wishes that review to be. "It should come as no surprise to you that there is no simplified, variance-type alternative to the full-blown Development Order Application and Development Review Officer (DRO) review process that the County now requires that would minimize the cost (not to mention the time) involved before a petition may be certified to you for final public hearing review."

Planning Consultant Jim Frogner and I, for example, believe that this full-blown County staff/DRO review process – which at minimum requires a property owner to retain the services of a surveyor, site planner, landscape architect, civil engineer, traffic engineer and architect – will cost any Loxahatchee Groves property owner interested in bringing his property into compliance under Ordinance No. 2008-011 not less than \$50,000, consuming

He said this in regards to Ordinance 2008-011-Exemptions to Town's Moratorium Ordinance. He said the point Mr. Koehler brings up in the 3rd paragraph, "It should come as no surprise to you that there is no simplified variance-type alternative to the full-blown Development Order Application and Development Review Office (DRO) review process that the County now requires that would minimize the cost (not to mention the time) involved before a petition may be certified to you for public hearing review." He said so in other words, something like this can cost somebody \$50,000.00 to go through the DRO process and I've got that confirmed by one of our nursery owners here locally who had also gone through that process. He said I know that Jim Frogner had also spoke to that at one of our meetings, so this basically boils down to is we can have this Ordinance on our books but what is the process on how do they implement. He asked do we have something ready to roll on this.

Town Clerk Lippman said at this point in time, in preparation of this Ordinance being adopted I did research the process that is involved with the County and it is exactly as he described it here. He said the intent of this Ordinance was to allow people to participate in the County process that already exists on behalf of the Town in order to satisfy what they need to satisfy for the property until we have our own Planning Staff. He said until we have our own Planning Staff we can't do anything different from what the County does.

Town Attorney Tolces said what I might also add is what we are dealing with here are issues that have been identified as being Non-Conforming and unless you are going to make yourself Conforming there is nothing we can do under the current process other than what is already there. He said through the development of your own LDR's you will be able to consider these, but like Matt said unless you want to create your own Planning Department and take over everything you are kind of limited. He said we are providing them with an opportunity but it is limited.

Town Clerk Lippman said I had a conversation with Mr. Koehler on what the Choquette's could do to become compliant and the two things they need to do are submit a text amendment to the Comprehensive Plan which they can do now because we are under the County Comp Plan and if that is approved by DCA then at that point they can go through the conditional use approval process through the County. He said that is a process we can't amend because that is what is existing with the County and until we take it on ourselves that is the process they have to follow.

Town Attorney Tolces said I'd be happy to review Mr. Koehler's letter and provide a response.

Councilman Lipp said I'd like to have it as an Agenda Item for the next meeting and invite Jim Frogner and Mr. Koehler to come here and they said they would do the foot work for us and maybe you can talk to Mr. Koehler and find out what he has in mind. He said when we put these things out there and we become a Town there are Non-Conforming illegal uses and as long as you are not doing something against the law, I think we really need to look at these and figure out a way and even just through the Magistrate process to just say you are not approved but you've been here for this length of time so continue on but you'll never get a zoning change or land use change on your property.

Town Attorney Tolces said and I know we've had this discussion before and it is very, very difficult to have a Special Magistrate say you can continue, but no you can't continue unless the Council adopts specific rules and regulations governing this. He said a Non-Conforming use is labeled that because at some point in time they fell out of the current law, whether it is because of not getting a permit or because the zoning and the land use changed and it is my

understanding in dealing with the Code Enforcement cases is that none of the uses that came before the Special Magistrate were had ever been legally established within the area now known as Loxahatchee Groves, so unless you are going to amend the zoning code and amend the Comprehensive Plan to provide for these uses to be allowed, we are very limited in what we can do because as your Legal Counsel we want to make sure that everybody is treated equally. He said and you are welcome to adopt your own standards, time frames, uses, however, you feel it is the best interest of the Town, but until you actually do that we are left with the County's ULDC and the County's process.

Councilman Lipp said if every applicant who is outside of the ability to go through the Moratorium process, came as an Agenda Item and asked for something to be passed as an Ordinance for their particular piece of Loxahatchee Groves to be allowed to do this until they sell it and it goes back to RR5, and asked is that something the Town Council can do.

Town Attorney Tolces responded at this point I would say no. He said you are dealing with all kinds of zoning issues, land use issues, setbacks, and impacts associated adjacent properties and you've got to follow a set of rules and right now those rules are part of the ULDC. He said unless you are going to go about and amend the ULDC you are not going to be able to do that.

Councilman Lipp said well we've got that in process right now, we just started the RFQ for the LDR's i.e.-ULDC.

Town Attorney Tolces said but until you do that you do not have anything available to begin a process like you are describing and through our discussions with the County Planning Department once we set up a process like that we are going to have to likely seek a Planning Consultant.

Councilman Lipp said well we have to do it anyway once we get our own ULDC. He asked can we hold the people that are already in the process off that long, a year.

Town Attorney Tolces said that is essentially what we are doing now.

Councilman Lipp asked so there is nothing wrong with what we are doing now.

Town Attorney Tolces said we are essentially holding off on doing anything further until we adopt the Comprehensive Plan and the LDR's. He said I speak to Mr. Koehler on a regular basis and I would be happy to discuss this with him some more and I'll provide you with a Memo for your next meeting and we can continue the discussions. He said I think this is part of the growing pains.

Town Clerk Lippman you have two cases. He said you have someone who comes before the Special Magistrate that no matter what you do they are just not going to become legally conforming because of the codes and then you have cases like the Choquette's that are not permitted to do what they are doing without going through the County's process which allows for an exception. He said there is a process outline that you go through with cost and once you go through it is allowed. He said by doing this Ordinance recently we opened the doors for them to go through that process. He said that is the baby step, the next step is we have to do the Land Development Regulations and until that is approved by DCA and adopted by the Town we are still going to be under the County's ULDC. He said through the Budget process I will be coming to you and highly recommending you allot in the Budget for a Planning Department so we can

attack these problems. He said I happened to run into something today with the County where signals got crossed and someone got approved for something they shouldn't have.

Councilman Autrey said this topic that we are discussing right now is going to be a big election topic and since we have everybody in the room that is going to be running, I hope everyone is well versed in this issue because this is going to be a very complicated, potentially expensive endeavor to solve. He said and what we've done is allowed for a process to continue that has always been in existence and the Council has not been closing businesses. He said we inherited the Codes from the County and people have opened and operated businesses that are Non-Conforming, so what this speaks to is, who do we want to be as a Community, what industrial businesses do we want in our zoning. He said everybody says not in my backyard but there are some things going on that do bother a lot of people and it is going to be gut wrenching for whoever is on the Town Council to have to make some of these hard decisions and it is going to require leadership and people willing to work with each other and it is part of the growing pains. He said a lot of these businesses to operate legally might need to be zoned Commercial and if you rezone a piece of property Commercial today it might be a mulching property but then it could be a 7-11. He said you are going to have to think long and hard because you can't temporarily rezone something. He said we are going to have to have that as a Community conversation and it should be discussed at length. Great Job.

Vice-Mayor Herzog asked going along with the question of the services and the type of businesses here, do we get a chance to review the types of business licenses that are issued

Town Clerk Lippman responded said any new business license that is issued has to go through the Town's Code Enforcement to sign off but any renewal does not have to go through the Town.

Vice-Mayor Herzog asked what is the procedure for us to monitoring what is going on at these business sites.

Town Clerk Lippman said we get a report weekly as far as any new business tax licenses that are issued and we know about them because we have to sign off on them and approve them. He said as far as any existing operations and existing licenses there is nothing in place to monitor anything that is going on.

Vice-Mayor Herzog asked and there is no way to follow up on what they are applying for is what they are actually doing.

Town Clerk Lippman responded as long as we have complaint basis Code Enforcement, no.

Vice-Mayor Herzog said I attended an Advisory Committee Workshop in Plantation, Florida the other day and I have materials I will turn over to Matthew to keep on file for reference material should we ever want to establish Advisory Committees within our Town. She said the 4th Thursday which is February 26, 2009 there will be a Candidates Forum with the LGLA at 7p.m., she said it will be hosted by the Treasurer of the LGLA, so mark it on your calendar and turn out.

Councilman Louda said for Paul and a couple of other people that came in later, we went forward with the fireworks resolution and I do have the County Attorneys phone number and will set up a meeting to see what can be done with quickly with existing stuff on the books. He said

on the Koehler letter, if he is going to be in touch with Jon MacGillis, can we have Jon MacGillis come and get them all in at the same time.

Town Attorney Tolces responded I just want to make it clear that he is going on his own and not as a representative of the Town, and I will call Mr. Koehler to find out what his issues are.

Councilman Louda said this is what I meant, not to have Koehler do it, have us. He said the other thing is Councilman Autrey is extremely right about what is going on here. He referred to the Land Use Matrix of the ULDC and said zoning as AG RES Rural service area, a landscape services is A. He said we've got a bunch and asked how many of them have gone through that process. He said it is going to get sticky. He said the next thing is on the next Agenda I would like to have traffic at the park put on. He said close that entrance off of Citrus and leave it as an emergency entrance because we have traffic that is going to be improved on E Road going North a bit. He asked on the next Agenda get somebody here, perhaps Dennis Eschleman or George Webb to get this moving with trying to get the traffic off of Citrus. He said I first drew this up in April of 2008, so it's almost been a year. He said we need to get something started on this and then we can worry about E, Loxahatchee, and Tangerine, but let's get the traffic off of Citrus and if we can get the County use of the park internalized. Good Job.

Councilman Autrey said I just remembered Matthew and I had a conversation that speaks to what Marge asked about and it seems the County has a peculiar system in place for issuing licenses. He said the fact that a person can go get a business license doesn't mean they can open up a business. He said the County is more than happy to take their \$25 and hand them a piece of paper but then they are supposed to go through the process, but once they get that piece of paper some people say I'm in business. He said and to me that doesn't make any sense.

Town Manager Dr. Rosenbaum said is that why they call it a business tax receipt now.

Councilman Autrey said it is not a license to do business. He said eventually we need to get the County out of that business.


Mayor Browning said thank you all for coming. He said we have an election coming up, and for those who aspire for these seats, there are sacrifices. He pointed to his wife Sharyn Browning in the Public and said 36 years ago today, we were married and today is our Anniversary. He also mentioned absentee ballots if you are not going to be in Town.

Mayor Browning moved to Item #16.

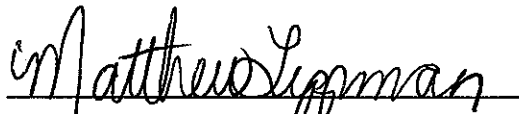
19. Adjournment

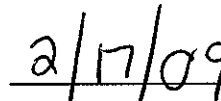
Councilman Lipp MOTIONED to adjourn the meeting, SECONDED by Vice-Mayor Herzog and the Motion passed unanimously 5-0.

There being no further discussion and no additional public comment the meeting was adjourned at 8:39 p.m.


MAYOR DAVE BROWNING

ATTEST:


Matthew Lippman, Town Clerk


Date Approved